

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

MARK DOWNEY,

Plaintiff,

v.

JUDGE, et al.,

Defendants.

CASE NO. 2:25-cv-01106-BJR-DWC

ORDER DECLINING SERVICE OF
CIVIL RIGHTS COMPLAINT

Plaintiff Mark Christopher Downey, proceeding *pro se* and *in forma pauperis*, initiated this prisoner civil rights action under 42 U.S.C. § 1983. Dkt. 6; Dkt. 7. Having reviewed and screened Plaintiff's complaint in accordance with 28 U.S.C. § 1915A, the Court declines to serve the complaint and, instead, provides Plaintiff leave to file an amended pleading by August 28, 2025, to cure the deficiencies identified herein.

I. BACKGROUND

Plaintiff initiated this action on June 12, 2025, challenging various circumstances related to his confinement at Snohomish County Jail ("SCJ"). Dkt. 7. Plaintiff organizes his claims into three counts, and each is asserted against a different defendant. *Id.* In Count I, Plaintiff alleges

1 the judicial officer presiding over his ongoing state-court prosecution violated his civil rights and
2 placed his life in danger when he announced Plaintiff's criminal charges in open court. *Id.* at 4–
3 5. In Count II asserted against Defendant “Medical,” Plaintiff alleges he was denied proper
4 medical care after suffering a stroke and falling in his cell at SCJ. *Id.* at 3, 6–7. Finally, in Count
5 III asserted against Defendant SCJ, Plaintiff alleges was prohibited from engaging in a religious
6 fast. *Id.* at 3, 7–8. In all Counts, Plaintiff states he is suing “for the max,” and, in Count II,
7 Plaintiff requests immediate release from confinement. *Id.* at 9.

8 II. SCREENING STANDARD

9 Under the Prison Litigation Reform Act of 1995, the Court is required to screen
10 complaints brought by prisoners seeking relief against a governmental entity or officer or
11 employee of a governmental entity. 28 U.S.C. § 1915A(a). The Court must “dismiss the
12 complaint, or any portion of the complaint, if the complaint: [] is frivolous, malicious, or fails to
13 state a claim upon which relief may be granted[.]” *Id.* at (b); 28 U.S.C. § 1915(e)(2); *see Barren*
14 *v. Harrington*, 152 F.3d 1193 (9th Cir. 1998). Dismissal on these grounds counts as a “strike”
15 under 28 U.S.C. § 1915(g).

16 The Court is required to liberally construe *pro se* documents. *Estelle v. Gamble*, 429 U.S.
17 97, 106 (1976). However, Federal Rule of Civil Procedure 8 requires a complaint to contain “a
18 short and plain statement of the claim showing the pleader is entitled to relief,” and “[e]ach
19 averment of a pleading shall be simple, concise, and direct.” Fed. R. Civ. P. 8(a)(e).

20 III. DISCUSSION

21 Upon review, the Court finds several deficiencies in the complaint. Specifically, Plaintiff
22 (A) raises unrelated claims against different defendants in a single action, (B) names improper
23 and (C) immune defendants, and (D) seeks relief not available under 42 U.S.C. § 1983. Each
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1 deficiency is outlined below and, where appropriate, the Court provides instructions on how the
2 defect may be cured if Plaintiff intends to proceed in this action.

3 **A. Unrelated Claims against Different Defendants**

4 First, the complaint asserts unrelated claims against different defendants that must be
5 pursued in separate lawsuits. Under Rule 20, plaintiffs may join claims against different
6 defendants in a single action only if (1) the claims arise out of the same transaction or
7 occurrence, or series of transactions and occurrences, and (2) there are common questions of
8 law or fact. Fed. R. Civ. P. 20(a)(2); *Coughlin v. Rogers*, 130 F.3d 1348, 1351 (9th Cir. 1997);
9 *Desert Empire Bank v. Insurance Co. of North America*, 623 F.2d 1371, 1375 (9th Cir. 1980).

10 Adherence to Rule 20 is of particular importance in prisoner civil rights actions:

11 [M]ultiple claims against a single party are fine, but Claim A against Defendant 1
12 should not be joined with unrelated Claim B against Defendant 2. Unrelated claims
13 against different defendants belong in different suits, not only to prevent the sort of
14 morass [a multiple claim and multiple defendant] suit produce[s], but also to ensure
that prisoners pay the required filing fees—for the Prison Litigation Reform Act
limits to [three] the number of frivolous suits or appeals that any prisoner may file
without prepayment of the required fees.

15 *George v. Smith*, 507 F.3d 605, 607 (7th Cir. 2007) (citing 28 U.S.C. § 1915(g)) (cleaned up).

16 Therefore, a plaintiff seeking to pursue separate conditions of confinement claims against
17 different defendants must either (1) do so in separate actions or (2) plead sufficient facts showing
18 the claims (a) arise out of the same occurrence or series of occurrences and (b) involve a
19 common question of law or fact. *See George*, 507 F.3d at 607; *see also* Fed. R. Civ. P. 20(a)(2)
20 (joinder of defendants not permitted unless both commonality and same occurrence requirements
21 are satisfied).

22 Here, Plaintiff's factual allegations cover a wide range of unrelated events and
23 circumstances relating to his current pretrial confinement, such as danger allegedly resulting
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1 from judicial action taken during his ongoing state-court prosecution (Count I), the alleged
2 failure to provide adequate medical care (Count II), and alleged restrictions on his ability to
3 engage in religious fasts (Count III). Dkt. 7 at 2–8. Plaintiff’s claims are asserted against
4 different defendants, lack common questions of law or fact, and concern unrelated transactions
5 and occurrences. *Id.* Thus, Plaintiff’s complaint does not comply with Rule 20 of the Federal
6 Rules of Civil Procedure. If Plaintiff intends to proceed in this action, he must limit the claims
7 asserted in his amended pleadings to those involving common defendants or those arising out of
8 the same event or series of events and raising common questions of law or fact.

9 **B. Improper Defendants**

10 Next, Plaintiff names “Medical” and SCJ as defendants, but neither is a proper defendant
11 in this action. Dkt. 7 at 3. To proceed under 42 U.S.C. § 1983, a plaintiff must show: (1) he
12 suffered a violation of rights protected by the Constitution or created by federal statute, and (2)
13 the violation was proximately caused by a “person” acting under color of state law. *See*
14 *Crumpton v. Gates*, 947 F.2d 1418, 1420 (9th Cir. 1991). Section 1983 claims may be brought
15 against a “person” in their official or individual capacities. Whether brought against an official or
16 individual defendant, the first step in pleading a § 1983 claim is to identify the specific
17 constitutional right allegedly infringed. *Albright v. Oliver*, 510 U.S. 266, 271 (1994). At step
18 two, however, the requirements differ based on the type of defendant sued.

19 For claims against individuals, the second step of pleading a § 1983 claim is to allege
20 facts showing how an individual defendant caused, or personally participated in causing, the
21 harm alleged in the complaint. *See Arnold v. IBM*, 637 F.2d 1350, 1355 (9th Cir. 1981). Claims
22 against individuals serving in supervisory roles may not be brought on the theory a supervisor is
23 vicariously liable for the acts of his or her subordinates. *See Polk County v. Dodson*, 454 U.S.

1 312, 325 (1981); *Monell*, 436 U.S. at 691. Rather, a plaintiff must show the supervisor (1)
2 personally participated in or directed the alleged harm or (2) knew of a risk of harm to the
3 plaintiff and failed to act to prevent it. *See Barren v. Harrington*, 152 F.3d 1193, 1194 (9th Cir.
4 1998), *cert. denied*, 525 U.S. 1154 (1999). Sweeping conclusory allegations against are
5 insufficient to state a claim for relief. *Leer v. Murphy*, 844 F.2d 628, 633 (9th Cir. 1988).

6 To state a claim against an official capacity defendant—such as a county or county
7 official—a plaintiff must allege facts showing the harm alleged in the complaint was caused by
8 an official custom, pattern, or policy permitting deliberate indifference to, or violations of, the
9 plaintiff’s civil rights. *Monell v. Department of Soc. Servs. of City of New York*, 436 U.S. 658,
10 691–91 (1978). Importantly, a county “cannot be held liable solely because it employs a
11 tortfeasor—or, in other words, [it] cannot be held liable under § 1983 on a respondeat superior
12 theory.” *Id.* at 691. A plaintiff must allege facts sufficient to show the existence of a county
13 policy or custom that was the moving force behind the alleged constitutional deprivation. *See*
14 *Oviatt v. Pearce*, 954 F.2d 1470, 1474 (9th Cir. 1992). A single incident of unconstitutional
15 action is generally insufficient to demonstrate the existence of an official county policy or
16 custom. *See Benavidez v. Cnty. of San Diego*, 993 F.3d 1134, 1154 (9th Cir. 2021). Finally, for
17 suits involving county entities, the county itself is the only legal entity capable of suing and
18 being sued. *See Nolan v. Snohomish County*, 59 Wn. App. 876, 883, 802 P.2d 792 (1990)).
19 Stated differently, only the primary municipality, county, or local government unit (in this case,
20 Snohomish County) may be sued in a § 1983 action.

21 With respect to Defendant “Medical,” Plaintiff does not clearly state whether he is suing
22 an individual medical provider or the medical department at SCJ. Dkt. 7 at 3, 6–7. Under either
23 construction, Count II is deficient. If Plaintiff is suing an individual medical provider, he does
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1 not allege sufficient facts demonstrating their personal participation in causing him constitutional
2 harm. If, on the other hand, Plaintiff is asserting an official capacity claim against SCJ's medical
3 department, then the proper defendant for his claim is Snohomish County itself and Plaintiff
4 must allege facts showing the existence of an official policy, practice, or custom that was the
5 moving force behind any constitutional violation he allegedly suffered.

6 Plaintiff's official capacity claim against Defendant SCJ in Count III is deficient for the
7 same reasons. Dkt. 7 at 3, 7–8. That is, the proper defendant for any claim involving a
8 Snohomish County entity (such as SCJ or departments within the jail) is the County itself, and
9 Plaintiff has not alleged facts sufficient to demonstrate county liability for the injuries alleged in
10 Count III.

11 In any amended pleadings, Plaintiff should only name an individual as a defendant if he
12 can put forth sufficient facts demonstrating their personal participation in causing his alleged
13 constitutional injuries. Sweeping allegations against all defendants will not suffice. Instead,
14 Plaintiff must identify the way in which the actions or inactions of each defendant caused him a
15 specific constitutional injury. If Plaintiff intends to pursue official capacity § 1983 claims against
16 a county defendant, he must name the proper defendant and allege facts sufficient to show an
17 official county policy or custom was the moving force behind any constitutional harm alleged.

18 **C. Judicial Immunity**

19 Next, Plaintiff names “Judge” as a defendant and, in Count I, he seeks damages from the
20 judicial officer presiding over his ongoing state court proceedings for danger allegedly caused by
21 judicial action taken in those proceedings. Dkt. 7 at 2–5, 9. However, the judicial officer Plaintiff
22 seeks to sue is shielded from monetary liability under the absolute immunity doctrine. *Mireles v.*
23 *Waco*, 502 U.S. 9, 9–12 (1991). Explained further, “[j]udges are absolutely immune from
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1 damages actions for judicial acts taken within the jurisdiction of their courts.... A judge loses
2 absolute immunity only when he acts in the clear absence of all jurisdiction or performs an act
3 that is not judicial in nature.” *Schucker v. Rockwood*, 846 F.2d 1202, 1204 (9th Cir. 1988) (per
4 curiam) (citations omitted). Judges retain absolute immunity from damages suits even when
5 accused of acting maliciously or corruptly, *see Mireles*, 502 U.S. at 11, or when accused of
6 acting in error, *see Meek v. County of Riverside*, 183 F.3d 962, 965 (9th Cir. 1999). Because
7 Plaintiff seeks damages against a judge for judicial acts, his claim in Count I against Defendant
8 “Judge” is barred by the absolute immunity doctrine.

9 **D. Section 1983 vs. Habeas**

10 Finally, in Count II, Plaintiff requests “all charges be dismissed with prejudice and never
11 to be brought back with no more probation [sic].” Dkt. 7 at 9. To the extent Plaintiff is
12 challenging the validity of his current confinement and seeking immediate release, he may not do
13 so in this § 1983 action. Rather, the sole mechanism for bringing such claims is through filing a
14 federal habeas petition pursuant to 28 U.S.C. § 2241(pre-conviction habeas petitions) or § 2254
15 (post-conviction habeas petitions).

16 An “action lying at the core of habeas corpus is one that goes directly to the
17 constitutionality of the prisoner’s physical confinement itself and seeks either immediate release
18 from that confinement or the shortening of its duration. With regard to such actions, habeas
19 corpus is now considered the prisoner’s exclusive remedy.” *Preiser v. Rodriguez*, 411 U.S. 475,
20 503 (1973) (internal quotations and citations omitted). “A civil rights action, in contrast, is the
21 proper method of challenging conditions of confinement.” *Badea v. Cox*, 931 F.2d 573, 574 (9th
22 Cir. 1991) (internal quotations and citations omitted).

1 Applying these principles here, Plaintiff's request to be released from confinement relates
2 to the validity and constitutionality of his current confinement, not the conditions of that
3 confinement. As such, his request for release is not cognizable in a § 1983 action and should not
4 be included in any amended pleadings.

5 IV. INSTRUCTIONS TO PLAINTIFF

6 If Plaintiff intends to proceed in this action, he must file an amended complaint. The
7 amended complaint must contain a short, plain statement telling the Court: (1) the constitutional
8 right Plaintiff believes was violated; (2) the name of the person who violated the right; (3)
9 exactly what the individual did or failed to do; (4) how the action or inaction of the individual is
10 connected to the violation of Plaintiff's constitutional rights; and (5) what specific injury
11 Plaintiff suffered because of the individual's conduct. *See Rizzo v. Goode*, 423 U.S. 362, 371–72,
12 377, 96 S.Ct. 598, 46 L.Ed.2d 561 (1976). Each claim for relief must be simple, concise, and
13 direct.

14 Plaintiff shall present the amended complaint on the form provided by the Court. The
15 amended complaint must be legibly rewritten or retyped in its entirety, it should be an original
16 and not a copy, it should contain the same case number, and it may not incorporate any part of
17 the original complaint by reference. The amended complaint will act as a complete substitute for
18 the original complaint, not as a supplement. The Court will screen the amended complaint to
19 determine whether it contains factual allegations linking each defendant to the alleged violations
20 of Plaintiff's rights.

21 In the amended complaint, Plaintiff should allege only constitutional violations arising
22 from a single transaction or occurrence or singular series of transactions and occurrences.
23 Plaintiff shall file additional lawsuits, if he so chooses, alleging constitutional violations by
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1 different defendants arising from separate transactions or occurrences. For example, if Plaintiff
2 chooses to pursue claims of deliberate indifference to medical needs against one defendant, he
3 should allege such claims in one complaint. If Plaintiff also chooses to pursue claims concerning
4 other conditions of confinement against different defendants, such claims must be pursued in
5 different lawsuits.

6 Furthermore, Plaintiff must not include any request for release from confinement in his
7 amended pleadings. This form of relief is not available under 42 U.S.C. § 1983 and will prevent
8 him from filing a serviceable civil rights complaint.

9 If Plaintiff fails to file an amended complaint or fails to adequately address the issues
10 raised herein on or before August 28, 2025, the undersigned will recommend dismissal of this
11 action pursuant to 28 U.S.C. § 1915.

12 The Clerk is directed to send Plaintiff the appropriate forms for filing a 42 U.S.C. § 1983
13 civil rights complaint and for service. The Clerk is further directed to send copies of this Order
14 and *Pro Se* Instruction Sheet to Plaintiff.

15 Dated this 24th day of July, 2025.

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18 David W. Christel
19 United States Magistrate Judge
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